

## REMARKS

Claims in the case are 1-5, 7 and 9.

Regarding Item-(7) on page 2 of the Examiner's Answer, it is respectfully submitted that Appellants' Appeal Brief, dated July 26, 2002, explicitly states that: (I) relative to the rejection under 35 U.S.C. §102(b or e), Claims 1, 3-5, 7 and 9 stand or fall together; and (II) relative to the rejection under 35 U.S.C. §103(a), Claims 1-5, 7 and 9 stand or fall together. Attention is directed to item VII, "GROUPING OF THE CLAIMS" on page 3 of Appellants' Appeal Brief.

For the first time, on page 5 of the Examiner's Answer, the Examiner argues that DE 2823762 discloses the introduction of reactants at the same temperature into a reactor. Appellants respectfully submit that the disclosure of DE 2823762 is moot in this regard as to their claimed process. DE 2823762 discloses the separate introduction of reactants into a premixer, in which reaction between the components is avoided (page 6, first full paragraph). The contents of the premixer (i.e., **a mixture of the reactants**) are then introduced into a reactor. Appellants' claims are directed to introducing **separate** reactant streams into a reactor, in a way such that the reactant streams have a temperature difference of less than 20°C upon introduction into the reactor. Appellants respectfully submit that the disclosure of DE 2823762 as to introducing a mixture of reactants into a reactor neither reaches nor touches upon Appellants' claimed process which involves introducing separate reactant streams into a reactor. In addition, the process of DE 2823762, which involves both a premixer and a reactor, would exceed the maximum reactor residence time of 5 seconds of Appellants' claimed process.

For the first time, on page 5 of the Examiner's Answer, the Examiner argues that Appellants' claims are unbounded, with regard to the teachings of United States Patent No. 4,597,927 (**Zeitler et al**) and DE 2418075 (each previously discussed by Appellants in their Appeal Brief). Appellants respectfully submit that the language of Claim 1, as to the temperature difference of components (A) and (B) upon their introduction into the reactor, is not unbounded by the term "before," particularly in light of the specification and the related German language PCT publication (**WO 99/31158**). WO 99/31158 recites "*wobei die Temperaturen der Komponenten (A) und (B) vor der Zusammenführung im Reactor eine Differenz < 20°C aufweisen*"

(Zusammenfassung, last two lines). The recitation "*vor der Zusammenführung im Reactor*" may be translated into English as "with their bringing together in the reactor," which more colloquially and reasonably translates to "upon their introduction into the reactor."

Examples 1, 2, 5, 9 and 10 of Appellants' specification (pages 11-15) disclose metering separate feed streams of polyisocyanate (A) and polyol mixture (B) into either a static mixer or an extruder, wherein the temperature of the feed streams is  $< 20^{\circ}\text{C}$ . From the description of the examples, it is clear that components (A) and (B) have a temperature difference of  $< 20^{\circ}\text{C}$  upon their respective introductions into the static mixer or extruder (i.e., the reactor).

In light of the preceding comments, Appellants' claims are deemed to refer to the temperature difference between components (A) and (B) being less than  $20^{\circ}\text{C}$  upon their separate introduction into the reactor. As such, Appellants' discussion in their Appeal Brief as to Zeitler et al and DE 2418075, demonstrating the introduction of reactants into a reactor at temperature differences in excess of  $20^{\circ}\text{C}$ , is deemed to represent the state of the prior art relative to Appellants' claimed process.

On page 6 of the Examiner's Answer, the Examiner argues for the first time that DE 2823762 supports his position that the secondary references (cited under the obviousness rejection) are representative of common processing techniques within the art. The Examiner argues further, on page 6, that DE 2823762 discloses the introduction of reactants at the same temperature into a reactor. Appellants respectfully disagree.


As discussed previously herein, DE 2823762 discloses the separate introduction of reactants into a premixer, in which reaction between the components is avoided. The contents of the premixer (i.e., **a mixture of the reactants**) are then introduced into a reactor. Appellants' claims are directed to introducing **separate** reactant streams (components A and B), having at temperature difference of  $< 20^{\circ}\text{C}$ , into a reactor.

In light of the preceding remarks, Appellants' respectfully submit that the disclosure of DE 2823762 as to introducing a mixture of reactants into a reactor neither reaches nor touches upon Appellants' claimed process, which involves introducing separate reactant streams into a reactor. In addition, the process of

DE 2823762, which involves both a premixer and a reactor, would exceed the maximum reactor residence time of 5 seconds of Appellants' claimed process. In addition, DE 2823762 is not deemed to further support the Examiner's arguments as to the secondary references relative to the obviousness rejection.

In light of the reasons discussed herein and those discussed at length in their Appeal Brief, Appellants maintain their position that the Examiner's rejections are improper. Appellants respectfully request that these rejections be reversed, and that Claims 1-5, 7 and 9 be allowed.

Respectfully submitted,

By   
James R. Franks  
Agent for Appellants  
Reg. No. 42,552

Bayer Corporation  
100 Bayer Road  
Pittsburgh, Pennsylvania 15205-9741  
(412) 777-8339  
FACSIMILE PHONE NUMBER:  
(412) 777-8363  
s/rmc/jrf/0094